IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

SB CIVIL WRIT PETITION NO.1758/1994
Jaipal Sharma
V/s
The State of Rajasthan & ors.

Date of Order : : 11.10.2006

PRESENT
HON'BLE MR. JUSTICE P.S. ASOPA

Mr.S.P. Mathur, for the petitioner.
Mr.B.L. Avasthi, Dy.GA, for the State.

By the instant writ petition, the petitioner has sought appropriate writ, order or direction for quashing the order dated 2.4.1994 (Annexure-5) whereby the order of appointment of the petitioner dated 6.7.1993 has been set aside and the services of the petitioner on the post of LDC cum Telephone Operator have been terminated w.e.f. 2.4.1994.

The facts, in brief, of the case are that the petitioner was initially trained as a Volunteer in the Civil Defence under the respondent No.1 on 12.6.1987 and thereafter was given work of Telephone Operator in the P.B.X. Of Civil Defence, Jaipur, on Rs.22 per day for 6 hours work. On 6.7.1993, the petitioner was appointed in the pay scale of LDC cum Telephone Operator after considering necessary qualification and experience. The said order dated

6.7.1993 was set aside vide order dated 2.4.1994. The State Government has filed reply to the writ petition and submitted that appointment of the petitioner vide order dated 6.7.1993 was temporary one and he was not appointed through proper channel. It was also stated in the reply that for regular appointment on the post of LDC, a person is required to pass competitive examination from the RPSC.

The submission of counsel for the petitioner is that the impugned order is violative of principle of natural justice and before appointment, no objection was taken from the Divisional Commissioner. The petitioner was appointed after consideration of necessary qualification and experience as well as medical, which clearly reveal that said appointment is a regular appointment.

Mr.Mathur, counsel for the petitioner has placed documents along with application and has submitted that one similarly situated Vinod Prakash Sharma was appointed in view of the notification dated 12.10.1992, which was incorporated in Rule 25 (10) of the Rajasthan Subordinate Offices Ministerial Staff Rules, 1957 (hereinafter to be referred as “the Rules of 1957”), according to which the persons working on daily wages from the period 1.1.1985 to 31.3.1990 and are still working on the said date, are entitled for consideration for

appointment on regular basis on availability of the vacancy. This court passed an interim order on 11.4.1994 whereby operation of the order dated 2.4.1994 was stayed and the petitioner is still continuing in service. Counsel for the petitioner submits that since the petitioner is working satisfactorily since 17 years, therefore, the said experience be treated equivalent to passing of the test as has been done by the concerned authorities in case of other employees.

I have heard learned counsel for the parties and further considered rival submission of the parties.

In my view, the case of the petitioner is fully covered by Rule 25 (10) of the Rules of 1957 as amended on 12.10.1992. Apart from above, the benefit of said rule has been given in the same department to one similarly situated person Vinod Prakash Sharma and there is no reason not to extend the said benefit to the petitioner.

There is nothing on record to show that point No.2 on which Shri Shiv Shanker Jatav was appointed, was not reserved for SC. The said issue was clarified in the reply, but no rejoinder was filed.

In view of above, I find no force in the writ petition and the same is dismissed.

(P.S. ASOPA) J.

ummed/-